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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,556	10/26/2001	Daniel P. Healy	ZL668/01001	6092
27868	7590	08/26/2005	EXAMINER	
JOHN F. SALAZAR MIDDLETON & REUTLINGER 2500 BROWN & WILLIAMSON TOWER LOUISVILLE, KY 40202			WEIER, ANTHONY J	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,556

Applicant(s)

Examiner

Anthony Weier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 and 25 is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-10, 13-18, and 23 are indefinite in that same lacks nexus with respect to the first and/or second cylinders as they relate to the other elements of the apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 8, 9, 13, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsutsumi taken together with Martin and Mendenhall.

Tsutsumi discloses a coring station having a frame (i.e. turret and manifold holding turret in place) wherein said coring station has a number of fluid cylinders including one for injecting air (e.g. 142) and another a pneumatic cylinder (118) each employed in effecting processing of pineapple. One cylinder (118) is related to a push plate (122) wherein said cylinder inherently has a limit switch in electrical communication with a simple controller (46) which has been programmed inherently at least during installation or manufacturing of said controller. The Tsutsumi device also

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includes removably attached circulating blades (e.g. 36; see Figure 8; screws hold blades in place) which are related to a push plate portion (e.g. 140 platform) with a centering mechanism set forth there between (20 of the turret). Tsutsumi further discloses pairs of guide rails employed to help position the fruit and, inherently, maintain the turret alignment within the coring station.

Tustusmi is silent regarding a lifting device and said lifting device possessing a fluid cylinder. However, such lift devices effected by air cylinders are well known in the fruit treatment art as taught, for example, by Martin (see Figures; element 40). It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed said lift device in the apparatus of Tustusmi to provide for more controlled placement of the pineapple in contrast to the simple chute mechanism (22) employed therein.

Tustusmi is further silent regarding the presence of a programmable controller in electric communication with the fluid cylinder of the lifting device and first and second cylinders of the coring station wherein said programmable controller is a PLC fixedly attached to said frame. It is notoriously well known to employ programmable controllers including PLC in fruit processing as taught, for example, by Mendenhall (see Abstract). It would have been further obvious to have employed same as a conventional means of controlling the operation of said apparatus and ensuring same acts within parameters desired by the operator. As for said controller being attached to the frame of Tustusmi, same would have been further obvious as a matter of preference regarding the desired location for the controller.

Allowable Subject Matter

Claims 3-7, 10-12, and 14-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 24 and 25 are allowed.

Reasons for Allowance

Regarding claims 3-7 and 15-24, the prior art of record neither discloses nor suggests employing an coring machine having an arcuate scoop having a feed area gate depending from said scoop. Although Martin does disclose a fruit treatment apparatus having a lift device, same employs barbs to hold the fruit in place and not a feed gate, arcuate related scoop and, in view of the prior art of record, there would be motivation for substituting such attributes to the lift device of Martin. With respect to claims 10-12 and 25, the prior art for record does not disclose nor suggest the use of a coring tube axially aligned with a circular blade within a device as specifically set forth in the instant claims. With respect to claim 14, the prior art for record neither discloses nor suggests the use of slidably adjustable blades employed between the lifting device and coring station. It would not have been obvious to have modified the turret enabled apparatus of Tsutsumi to include same.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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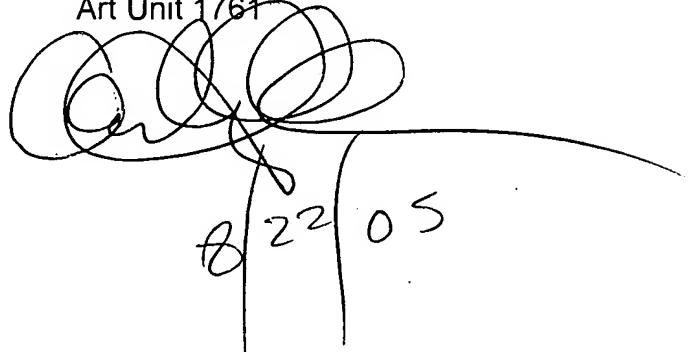
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
August 22, 2005

Anthony Weier
Primary Examiner
Art Unit 1761



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